

**BEFORE
THE PUBLIC SERVICE COMMISSION OF
SOUTH CAROLINA**

DOCKET NOS. 2003-326-C AND 2003-327-C

In Re:

Analysis of Continued Availability of Unbundled)
Local Switching for Mass Market Customers)
Pursuant to the Federal Communication)
Commission's Triennial Review Order)
(Docket No. 2003-326-C))

And)

Continued Availability of Unbundled High)
Capacity Loops at Certain Locations and)
Unbundled High Capacity Transport on Certain)
Routes Pursuant to the Federal Communication)
Commission's Triennial Review Order)
(Docket No. 2003-327-C))

**Competitive Carriers of the
South, Inc.'s Response to
Petition for Reconsideration
of South Carolina Telephone
Coalition and South Carolina
Net, Inc.**

In response to the Petition for Reconsideration of Public Service Commission of South Carolina ("Commission") Order No. 2003-730 filed by the South Carolina Telephone Coalition ("SCTC") and South Carolina Net, Inc. ("SC Net), the Competitive Carriers of the South, Inc. ("CompSouth") submits its response to the petition. CompSouth respectfully opposes such petition because procedurally the Commission properly issued Order No. 2003-730 and because the petitioners are not unduly prejudiced by the terms of Order No. 2003-730. In support hereof, CompSouth shows as follows:

1. CompSouth is a non-profit association duly organized and existing under the laws of the State of Georgia. CompSouth is an association of competitive local exchange carriers serving residential and business telecommunications customers throughout the State of South

Carolina.¹

2. The Commission held three public workshops for which they provided official notice to hear from all interested persons about various aspects of the TRO and implementation issues facing the Commission.

3. After the three public workshops, the Commission issued Order 2003-667 setting hearing dates and opening dockets for the state proceedings required by the Federal Communications Commission ("FCC") in its Triennial Review Order of Section 251 unbundling obligations of Incumbent Local Exchange Carriers ("TRO"). The TRO was issued by the FCC on August 21, 2003.

4. In Order No. 2003-667, the Commission granted tentative approval to the filing of testimony, exhibits, and briefs. Furthermore, the Commission established two dockets to analyze the various issues.

5. CompSouth and BellSouth proposed a procedural schedule to assist with the various discovery issues given that CompSouth and BellSouth were arguing these cases across the BellSouth nine state region.

6. Upon the opening of above dockets, BellSouth and CompSouth began immediately serving interested parties with discovery requests.

7. On December 2, 2003, the Commission, during its public meeting, granted a motion by BellSouth to make all entities that have a certificate to operate as a telephone utility in South Carolina a party to the above-referenced dockets for the limited purpose of discovery.

¹ Member companies of CompSouth include ITC^DeltaCom; MCI; NewSouth Communications, Corp.; AT&T; Nuvox Communications, Inc.; ACCESS Integrated Networks, Inc.; Birch Telecom; Talk America; Cinergy Communications Company; Network Telephone Corp.; Momentum Business Solutions, Inc.; Xspedius Management Co., LLC; Z-Tel Communications, Inc.; Covad Communications Company; KMC Telecom; IDS Telecom, LLC; Access Point Inc.; and LecStar Telecom, Inc.

8. Subsequent to the Commission's approval of the BellSouth motion, Bellsouth served members of SCTC and SC Net with discovery on approximately December 7, 2003. Attached to such discovery was included a copy of BellSouth's motion. In the discovery requests, BellSouth references PSC Order 2003-667 opening the dockets.

9. Subsequently, SCTC and SC Net moved the Commission seeking relief from the conditions associated with BellSouth's discovery requests. The Commission denied such request but granted SCTC and SC Net some relief in filing objections and responses.

10. On December 17, the Commission issued Order No. 2003-730 to further memorialize the procedural and discovery rules under which the parties had already begun operating and which the Commission tentatively had already approved.

11. On January 12, 2004, SCTC and SC Net filed their petition for Reconsideration of Order No. 2003-730.

12. On January 12, 2004, the Commission issued notices for both dockets stating the hearing dates and setting times for interested parties to intervene.

**THE PUBLIC SERVICE COMMISSION COMPLIED WITH S.C. STATUTES AND
COMMISSION REGULATIONS WHEN IT ISSUED ORDER NO. 2003-730.**

13. Upon the issuance of the TRO, the Commission complied with S.C. Code Ann. § 58-9-1200, other applicable statutes, and applicable Commission rules and regulations. Upon a request or motion by persons, the Commission properly sets the matter for discussion at its weekly meeting. All weekly agenda items are noticed by the Commission the week prior to the meeting to ensure all parties have an opportunity to respond accordingly.

14. In this matter, SCTC and SC Net had ample time to respond to all matters concerning the Commission's implementation of the TRO. The Commission noticed three

public workshops at which the Commission staff addressed future procedural issues.

15. Additionally, the Commission opened the dockets in Order No. 2003-667 on November 7, 2003. SCTC and SC Net had ample time to raise procedural matters with the Commission.

16. S.C. Code Ann. § 58-9-1200 provides the parties may petition the Commission to reconsider an order within 10 days of receiving service of the notice of the entry of the order. SCTC and SC Net contend its petition is within the ten days. SCTC and SC Net had actual notice of the Commission's decision earlier than January 2, 2004 as they contend. The Commission issued its Order on December 17, 2003. SCTC and SCNet had already been served with discovery referencing the Commission's procedural decisions.

17. Therefore, CompSouth maintains the Commission has complied fully with all applicable statutes and regulations in issuing Order No. 2003-730.

**SCTC AND SC NET HAVE NOT BEEN PREJUDICED AS A RESULT OF THE
ALLEGED LACK OF NOTICE AND OPPORTUNITY TO BE HEARD.**

18. SCTC and SC Net have not been prejudiced as a result of Order No. 2003-730. The Order's intent was to establish procedures concerning the filing of objections and responses to discovery requests.

19. Order No. 2003-730 provides that if parties object to certain discovery requests, they are to object within 10 days. Additionally, discovery responses are due within 30 days consistent with Commission practice and South Carolina Rules of Civil Procedure. Upon receiving the objections, the party seeking discovery responses must decide whether to file a motion to compel.

20. In fact, in this case, members of SCTC and SC Net filed objections to certain

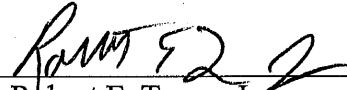
requests and moved to have the Commission hear such objections. The Commission duly heard from BellSouth and the petitioners before making a decision. Therefore, it is disingenuous for SCTC and SC Net to state they have not had an opportunity to be heard when, in reality, they have used the procedures to their advantage.

21. CompSouth maintains the petitioners have not been prejudiced or denied an opportunity to address the Commission concerning Order No. 2003-730.

WHEREFORE, for the foregoing reasons, CompSouth respectfully requests the Petition for Reconsideration of Order No. 2003-730 submitted by the petitioners be denied.

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January 22, 2004

CERTIFICATE OF SERVICE

I, the undersigned of the law offices of Sowell Gray Stepp & Laffitte, L.L.C., attorneys for Competitive Carriers of the South, Inc. ("CompSouth"), do hereby certify that I have served a copy of the pleading(s) hereinbelow specified via e-mail to the following address(es):

Pleadings: **Competitive Carriers of the South, Inc.'s Response to Petition For
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